

No. _____
U. S. DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

FILED SEP 22 1933

DEP. CLERK

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NEW ORLEANS
DIVISION OF THE EASTERN DISTRICT OF LOUISIANA

#16981
UNITED STATES

vs.

ALBERT M. MORRISON ET ALS.

BILL OF EXCEPTIONS

BE IT REMEMBERED that on the 20th day of February, 1933, the same being the Third Monday in the month of February, there convened, in the City of New Orleans, Louisiana, the District Court for the New Orleans Division of the Eastern District of Louisiana, being the regular February term of the said court in the year 1933, there being present and presiding, the Honorable Wayne G. Borah, District Judge, and the other officers of the said Court; and, on the 1st day of May, 1933, being a regular court day of the said term, there came on for hearing the case of UNITED STATES OF AMERICA vs. ALBERT M. MORRISON, LANDER H. NECAISE, JOSEPH L. O'NEAL, MERCHANT D. O'NEAL, and a number of other defendants named in the indictment in this cause, the said indictment charging that the defendants did, on or about the 28th day of October, 1929, and continuously thereafter up to and including the date of the return of the indictment in this cause, or some part thereof,

unlawfully and feloniously conspire and agree among themselves, and with each other, and with divers other persons to the Grand Jury unknown, to commit certain offenses against the laws of the United States as set forth in the indictment, and that certain of the said defendants, during the continuance of the said conspiracy, did commit and do certain overt acts to effect the object and purpose of the said conspiracy, which alleged overt acts are fully set forth in the indictment in this cause; and there was present and presiding at the trial of said cause, the Honorable Charles B. Kennemar, United States District Judge, he having been duly and legally assigned to the said court to preside over the proceedings thereof; and the Government being represented by Col. Amos W. W. Woodcock, Assistant to the Attorney General of the United States, announced ready for trial, and the said Defendants, being present in court and represented by their attorneys of record, announced ready for trial, whereupon the following proceedings were had:

On the oral motion of the defendants, Albert M. Morrison, Joseph L. O'Neal and Merchant D. O'Neal, the Court allowed them to join in, and become parties to, the special plea interposed by the defendant Lander H. Necaise, et als, herein, and by which, the manner, method and proceedings employed in the selection and impanelling of the Grand Jury that returned the indictment in this cause, was challenged by the Defendants.

A demurrer was interposed by the Government to the Special Plea above described, and the Court sustained that demurrer, and overruled the plea, to which the defendants, Jos. L. O'Neal, Merchant D. O'Neal and Albert M. Morrison

excepted, and the Court allowed the exception, their names not appearing in the plea, or the order sustaining the demurrer and overruling the plea, - the name of the defendant Lander H. Necaise does appear in the plea and the order sustaining the demurrer and overruling the plea.

The defendants filed, and interposed, an application for a bill of particulars, which appears among the pleadings in the cause, which application was denied by the Court, to which the Defendants excepted; and an exception was allowed by the Court.

The defendants were duly arraigned at the bar of the court, and each of them plead not guilty.

A jury of twelve good and lawful men of the New Orleans Division of the Eastern District of the State of Louisiana were duly impanelled and accepted by both the Government, and the Defendants, and were sworn to well and truly try said cause, the issue being whether or not the Defendants, or either of them, were guilty of the charges laid in the indictment.

After the jury was impanelled and sworn, as aforesaid, and before any testimony was introduced, Col. Amos W. W. Woodcock, Assistant to the Attorney General of the United States, and representing the Government in this case, in stating the Government's case to the jury, among other things gave utterance to the following remarks, to-wit:- "As I say, they were shipped, waybilled by this man J. J. Jones, whom the testimony will show was Joseph O'Neal, and whom the testimony will show was the righthand of Morrison in these larger transactions. Now, to give you again some names, so we will not be entirely

at sea, the people who were in the unloading end, dont you see, up at Kiln; you have got your contact of the O'Neals and Goldberg with Morrison here in New Orleans, and the people who unloaded the stuff and transshipped it, were Henry Dandridge, Sam Dandridge, Jim Dantzler, Booker Gaines, Talbot Green, Alfred Jackson, Blaine Lee, Charles Martin and Ilos Parker. Then there were three of these men up there who had control of the boat, the Nonpareil, that is the three brothers called Malini. This Nonpareil which brought the liquor up there is a boat of the lugger type. She was finally captured by the government. She was built in the winter of 1930-1931, and it is interesting as showing how the interlocking of this large conspiracy, that when they needed an engine to put in her at the shipyard in Biloxi, this same pair, Morrison and O'Neal, telegrapher \$1,000 from one of your local banks up to the builder, to put the engine in her, to pay for the motor. Then when the boat was repaired, this man, Felton LeBouef, the testimony will show, was in charge of her."

"Now, that is perhaps not a very clear outline of the first of these incidents which revealed to the government what was going on, that is, the unloading at Kiln, Miss. At the same time that that operation was going on, there was a somewhat similar, but so far as the evidence will show, less pretentious operation going on at Indian Village, which is in that same section. There the people who were actually identified as doing the work, was this Merchant O'Neal and a man named Garcia, Carrolla and Todaro, and the boat involved in that case was the Princess, a boat similar in almost every respect to the Nonpareil, both of the lugger type.

"The Princess was seized and forfeited on March 9th. The testimony will show that when she was repaired, this man Jules Collins, whom we believe was Jules LeBouef, and Felton Collins, whom we believe was Felton LeBouef, and Merchant O'Neal, were in charge of those repairs.

"Then the Talvez, another lugger was seized on the 15th of March with a load of liquor from these ships at sea, and she was in charge of another one of these defendants, Felton LeBouef.

"Now, you might say that the government intervened in this case on April 11, 1931, by arresting most of these defendants, but the thing did not stop. As late as March 18, 1932, a great quantity of this imported liquor was seized right in the city of New Orleans at 2831 Rampart St., a number arrested, and those who were in charge was this same Goldberg and Merchant O'Neal."

Objection by counsel for defendant: "This is going out of the indictment and has nothing to do with this indictment."

By the Court: "I understood Counsel to say this was in the early part of 1932, and the Indictment is 1932."

Counsel for Defendants: "That is true, but that has nothing to do with the charge."

By the Court: "As I recall it was a continued conspiracy down to the return of the Indictment." If you are making an objection to the statement of counsel I overrule it.

An exception was taken by the defendants and was allowed by the Court.

Whereupon the following testimony was introduced both on behalf of the Government and on behalf of the Defendants, being all of the testimony adduced on said trial, to-wit:

Insert Testimony of these witnesses here + in this order

Mrs Eliza Friedman (pro)

Char Ancher, Jr (pro)

Roy Kelly (pro)

Waldo Otis (pro)

Sidney Otis ✓

Lemar Otis ✓

Joseph Yarbrough ✓

R.N. Dufphy ✓

Dave J. Orr ✓

J.E. Carbaette ✓

J.P. Usher ✓

Miss ~~Alma~~ Alcida Ladner ✓

M.T. Holden ✓

Laverne Baker ✓

Myrtle Harvey ✓

Andrew Fuente ✓

Leon Fay ✓

R.D. Love ✓

Chester Traverca ✓

Andy Ellis ✓

Curtis Williams ✓

Mrs Robert Brucher ✓

Andrew E. Schiro ✓

J.E. Edell ✓

J.B. Kennedy

F.B. Walker

Harry Sawton

Allen H. Generes

Henry J. Ottrott

Mrs. Gillian Daunhauer

Frank Paul

A.W. Powell

R.S. Miller

W.S. Hart

L.P. Adams

R.H. Love

C.W. Prather

Howard Smith

John Farmer

Miss Agnes Andrie

Harry T. Richardson

W. Bruce Murray

Albert M. Nabers

W.H. Mullen

Harry J. Richardson

W.H. Mullen

Emile Mullet

John Frische

G. Andreener

R.H. Carter Jr

Dr. Sam B. Sakowitz

Will Hyde

Austin Williams

J.E. Cape

Carl E. Jenkins

Buford Phee

Govt. Rested

UNITED STATES OF AMERICA : No. 16981.
vs. : UNITED STATES DISTRICT COURT
ALBERT M. MORRISON, ET AL : EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION.

C E R T I F I C A T E .

I certify that I have carefully inspected the Bill of Exceptions in the above entitled and numbered cause, prepared by R. A. Wallace, one of the attorneys for the defendants, and I find the same to contain a full, complete and true statement of all the material evidence adduced at the trial; and all of the proceedings, not otherwise appearing from the records; and I recommend that it be approved and signed as a correct Bill of Exceptions in this cause.

A. W. Woodson
SPECIAL ASSISTANT TO THE
ATTORNEY GENERAL.

September 18, 1933.

(See testimony of R.E. Kelly, Radio Technician, offered as Exhibits X1 through X32 inclusive.)

G-2

Offered in evidence as Exhibit X 1

March 24, 1931 6:14 P.M.

GD (HX) BT ge/ HR CK 25 BT BERGS DREAR SMACK SMART BRAVE
COLONIAL PINTS MELDO DOWEL "GUILT" "QUAFF" SCOLD SUB CULEX RAZED
HOARD CULEX CORA CNCOR FOCUS WHINE SHRUG SHOVE ABHUC WEIGH
BT WANT and in hour BT UR msg this a.m. NG get check on
coding BT HW

Offered in evidence as Exhibit X 2

March 24, 1931 7:21 A

GD (HX) U tri to work me first HR CK 18 PT DAYAK CNCOR
HEATH SLOTH SMELL ANNOY SMOKY PROND BELTS PETAL CORA WOMAN
SCORN MOGUL SHOVE HOUSE SILKY GROIN BT HW

Offered in evidence as Exhibit X 3

March 24, 1931 7:24 A

HX (GD) #1 CK IB R OK HR #1 CK 13 BT KAFIR FEIGN CONCOR
WHOLE FLOSS SCORA SRAG SCULL FLUME SCRAP SCOWL SCOTS SCOTS
BT TT SCORA /CORR bab VY bad BT HW

Offered in evidence as Exhibit X 4

March 24, 1931 7:07 A

HZ (HC) R gm om hr #1 CK 3 BATON WORLD SIBYL BOSS ses TT
the boys hear -- and HX and -- no work -- ga

Offered in evidence as Exhibit X5

March 25, 1931 6:08 P

GD (HX) BT GE HR CK6 EXTRA CORA FRAIL WHITE SILKY SIBYL
BT HW

Offered in evidence as Exhibit X 6

March 25, 1931 7:06 A

GD (HX) gm ga HX (GD) R gm OB BT HR CK 25 BT BERGS SUB
SMOKE CAN CLUB BETEL BGIRASS CULEX CORA STOP MORAL SIBYL
SEDGE SASH (?) CONCOR WITTY FLECK SLING SMART SMOKE FLEET
SMALL SMACK SLOPE SLOPE BT SA back to the word SLDGE its
SEDGE instead of SLDGE HW

2.

Offered in evidence as Exhibit X 7

March 27, 1931 6:22 P

HX (GD) hr CK 16 bt QUIDS SEEMS ROSE FLAKE GAUDY
WHICH FRAIL SNEAK SNOWY SNEER SNIPE FRAME SNOUT SNORE
SNEAK SNIPE AR HW

Offered in evidence as Exhibit X 8

March 27, 1931 7:30 AM

GD (HX) HR CK 12 BT CESSE CORA NEWLY SHOWY SKIRT
RISEN FOGGY REACH GROAN WHINE SIEVE GROAN BT HW

Offered in evidence as Exhibit X 9

March 28, 1931 6:31 PM

JO JB ? HR TRBLE MG HR CK 7 DAYAK ABRUL ABSEX WHIPS
SEIGE SMACK ABVEA/ SA OM IF U DO ANY HAM WRK PSE TRI
QSP TS B4 9 P CST TONITE BT CK 24 TO RDO W2CTA 7150
KILOCYCLES YONKERS NY BT UR QSO 11th R OK 17th FLWD
INSTNS LST WK ES TS WK ND LST WK 73s CHAS AR HW NW K

Offered in evidence as Exhibit X 10

March 28, 1931 7:06 AM

GD - HX GM QRN BTTR QRU GA HX - GD R HR CK 16 QUIDS
SEEMS ROSE FLAKE GAUDY WHICH FRAIL SNEAK SNOWY SNEER SNIPE
FRAME SNOUT SNORE SNEAK SNIPE BT AGN (RPTD) HW

Offered in evidence as Exhibit X 11

March 30, 1931 7:18 AM

HX - GD R NR 1 CK 6 R OK BT HR #1 CK 7 BT KAFIR
FRUIT ROSIE SCORN SCOTS SCULL/ WHOLE/ BT HW

Offered in evidence as Exhibit X 12

March 31, 1931 6:10 PM

GD - HX QRN BT HR CK 5 BT EXTRA ROSIE FRAIL WHITE
SIMON BT AGN CK 5 (RPTD) HW

OFFERED in evidence as Exhibit X 13

April 1, 1931 6:15 PM

GD - HX BT GE HR CK 19 BT DAYAK BARBA DRILL BOAST
MONEY BANKS NASSAU ANNOY HLFAX READY SLOTH SMACK SNIPE
CYNIC STPIER ABOARD BARBA BOGUS OLDEN/ BT NR 2 FM JB
LST NITE CK 5 BT BERGS SPECK SLEEK ADOWN CUBAN AGN CK

3.4

5 FM JB LST NITE (RPTD) BT GESS MAY GET MSG FM GM AND
GN TONITE PSE QRX HW

Offered in evidence as Exhibit X 14

April 1, 1931 7:11 AM

(GD) CK 4 BERGS ADRIIP WHOLE ABUR TTS FER EVY BODY TTS
FER EVY BODY BT HW

Offered in evidence as Exhibit X 15

April 2, 1931 6:23 PM

GD - HX GE THAT CHAT FINE BUT TAKS TOO DARN LONG HI BT
HR RPT LST NITE BT CK 20 INSTEAD OF CK 19 BT DAYAK BARBA
MOLLY DRILL BOAST MONEY BANKS NASSAU ANNOY HLFAX READY SLOTH
SMACK SNIPE CYNIC STPIER ABOARD BARBA BOGUS OLDEN BT IF
UNABLE TO DECODE CUM BACK AT 1:30 AM bt hr #2 fm JB bt
this am CK 6 BT CESSE WHINE SHOUT BANTO SLUMP ROWEN bt fm
JB but too late or wld have been on this am bt hr #3 fm
JG bt CK 8 bt DAYAK ABYON SMACK SNIFF GORGE WHEAT WIVES
TRULY bt pse tell BOSS that spare 2 es NR 25 and spare 3
es NR seven bt HW

Offered in evidence as Exhibit X16

April 2, 1931 1:54 AM

HX - GD R YEP U BT HR NR 2 TO JS SPARE NR 1 BT CK 3
BT QUIDS ABGAH SATIN BT AGN (RPTD) HR #3 CK 4 TO JB AND
JG SPARE NR 2 BT BERGS WORSE SHORN SIEVE BT AGN (RPTD) WANT
ANS IN AM OR NW IF CAN BT HW

Offered in evidence as Exhibit X 17

April 2, 1931 1:35 AM

GK - HX GM OK HR CK 18 EXTRA ROSIE FRAIL WHITE SIMON
LEJUN GABLE LOST LABOR TOAST FETCH DEMUR COULD NASSAU CURLY
MOGUL ANVIL DRIDOCK BT NM VA GM

Offered in evidence as Exhibit X 18

April 3, 1931 6:44 PM

gm - HX BT MSG BUT TOO LATE BT CK 5 BT DAYAK WHITE
WOULD SLOTH SIMON BT AGN WU CK 8 RELAYED OK BT QRM MOVE
UP A BIT GA

4.

Offered in evidence as Exhibit X 19

April 3, 1931 6:08 PM

GZ - HZ BT CK 33 BT QUIDS BROOK SNIPE SNEAK SNIFF
BRUNT WHOLE POLAR CANON SLOWER THAN SECOND COMING STOP B
FACED GHOUL PUNCH PLANT NYMPH ABIRA QUILL ANTIC DELVE SCENT ADEXI
THIRSTY CLUCK DRINK ANILE BEER REGARDS TO THE GANG BT HW

Offered in evidence as Exhibit X 20

April 5, 1931 6:23 PM

GD - HX BT CK 5 R OK BUT TELL BOSS IT CANT BE #1 THATS
POSSIBLE BUT MUST BE FER #2 and #3 BT HR PSE RPT #2 ES
BOAT 25 and #3 es boat seven pse no more MISTAKE ABT THIS
BT HR CK 33 BATON CIBI WEDGE SLIME SMALL SLOOP SLOPE SMACK
SLUMP SLOOP SLOPE CONCOR WEDGE SLIME SMALL SMILE SMACK SLUMP
SLOOP SLOOP BOTH ON WEDGE STOP QUIDE BISON BAZAR LABEL CUBAN
BARBA BOWEL ADAMS AGAIN BT CK 33 BT MISTAKE IN THIS MEANS
TRUBLE IF IN DOUBT ASK FER RPT BT TWO MORE MSG BT HW

Offered in evidence as Exhibit X 21

April 4, 1931 6:41 PM

KG - GI BT HR CK 4 BT CABER WHIMS SIEGE GRIST BT AND
MORE U HOW IS SHE ? K

Offered in evidence as Exhibit X 22

April 4, 1931 6:12 PM

HX - GD QRM QRN QRM BT CK 11 R OK CK 11 R OK BT #1
CK 43 BT CABER RIGID GARBA BOWIN REFER CRUST SALLY BEADS
SEINE TWIST ANNEL TWINS WHICH FLEET SLOOP SMASH SLOPE SLUMP
FLESH SMART SMALL SLOOP SLUMP PUNCH REMOVE REMOVE BARBA
TWIST PUNCH WIELD ABJIT CONCOR ANNEL CIBI MORAL WHACK CLUCK
BLACK ALSO THEIR BOARD LETTERS ALHIR ABHOX BT NW HW AR

Offered in evidence as Exhibit X 23

April 6, 1931 7:08 AM

HX - GD R GM BT HR CK 5 BT DAYAK ADDED CONCOR WOULD SIGHT
BT NM BT SA CAN U GIVE ME CALL AND ANS OF #2 AND #3? HW
GA AR

5.

Offered in evidence as Exhibit X 24

April 7, 1931 7:14 PM

GD - HX BT HR FM JB BT CK 9 FM JB BT HAWSE WATCH ADBOT
ADMIT SLOPE REVEL WHEAT HOTLY AGATE BT CK 9 BT (RPTD) BR
amatur msg fm JB CK 15 bt to marge RUSSO 163 CLAREMONT AVE
MONTCLAIR NJ bt dont worry all will turn out well love sig
CHARLES but another one urgent but not coded just got it bt
QRX 10 min and

Offered in evidence as Exhibit X 25

April 7, 1931 6:28 PM

GD - HX CALL THIS DWN IN WL OF COURSE BT HI BT CK 22 BT
CESSE BOLTS RIGOR BARBA BRACE REIGN OWNER HALCON GUISE BLADE
STOP BOGIE INSTALL ULCER ANNEX DOWNY TWIRL STOP BT WANT ANS
NW IF POSSIBLE IMPORTANT BT QRU HW

Offered in evidence as Exhibit X 26

April 7, 1931 7:05 AM

GD - HX GM QTC HR CK 4 FM JB BT CABER WAFER ADRIP SCOPE
BT AGN (RPTD) HE WANTS ANS RITE AWAY BT WL QRX 20 MINS GA

Offered in evidence as Exhibit X 27

April 8, 1931 6:42 PM

JK - GF BT CK 13 R OK IF #3 IS FABLE BT HR CK 10 BT
CESSE ABWHE BRAKE BLEAR SLOPE SNIFF SLOTH SMACK BRAZE AFIRE BT
AGN (RPTD) HR HAD COMPANI ASTERN HI --- SUN AR HW K

Offered in evidence as Exhibit X 28

April 8, 1931 6:18 PM

KG - GI QTC BT HR CK 9 BT BERGS WHIMS SLUMP FISHERMEN RANGE
ABYON ABVUP CUBAN KR BT GE AR GA

Offered in evidence as Exhibit X 29

April 8, 1931 6:07 PM

HX - GD HR #1 BT JB BT CK 13 BT QUIDS ABGAH FLASH SLATE
FABLE SHOOT BOSKY MODEL FACED NYMPH ELVAN FAINT AFIRE BT HW AR

6.

Offered in evidence as Exhibit X 30

April 8, 1931 7:06 AM

HX - GD HR #1 CK 15 - CABER RIGID BARBA BOWIS REFER
HALCON INSTALL TWIST SCRIP DECAY WHACK AGATE DASHA BARBA
EASEL BT HW AR

Offered in evidence as Exhibit X 31

April 9, 1931 7:07 AM

HZ - GD HR COPI FER ROSE BT CK 4 BT BERGS CHEAP WORRY
SILKY BT AGN (RPTD) HW NR #2 FER CONCOR BT CK 21 DAYAK
WHIMS SMOKY SMASH GORGE CYNIC CHANDELIER FLANK FLINT SMOKE
SMELL SNACK SMACK FLIRT SNEAK SMEAR SLOPE SMALL ADDED SCORN
WIELD BT HW AR

Offered in evidence as Exhibit X 32

April 10, 1931 6:23 PM

HX 6 GD BERGS WITTY FLECK SMEAR SMART SLOPE SLOPE FLEET
SLOPE
SNAKE SMALL FLIME FLOPH WORRY SHRUG HDAGE

(X) 7:06 A.M., APRIL 8, 1931

(X-1) MARCH 24 @ 6:14 P.M.

(X-2) MAR 24 @ 7:21 A.M.

(X-3) MAR 24 @ 7:24 AM

(X-4) MAR 24 @ 7:07 AM.

(X-5) MAR 25 @ 6:08 P.M.

H-6 March 25 @ 7:06 A.M.

X-7 March 27 @ 6:22 P.M.

X-8 March 27 @ 7:30 A.M.

March 8 @ 6:31 P.M.

not marked
object to - Sustained

X-9 March 28 @ 6:30 A.M.

X-10 ✓ 28 @ 7:06 A.M.

X-11 ✓ 30 @ 7:18 A.M.

X-12 ✓ 31 @ 6:10 P.M.

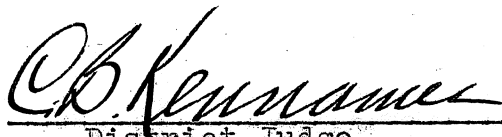
X-13	—	April 1, 1931	—	6:15 P.M.
X-14	-	✓	✓	— 7:11 A.M.
X-15	-	✓	2	- 6:23 P.M.
X-16	-	✓	2	- 1:54 A.M.
X-17	-	✓	✓	- 1:35 A.M.
X-18		✓	3	- 6:44 P.M.
X-19		✓	2	- 6:08 P.M.
X-20		✓	5	- 6:23 P.M.
X-21		✓	4	- 6:41 P.M.
X-22		✓	4	- 6:12 P.M.
X-23		✓	6	- 7:08 A.M.
X-24		✓	7	- 7:14 P.M.
X-25		✓	7	- 6:28 ?
X-26		✓	7	- 7:05 A.M.
X-27		✓	8	- 6:42 P.M.
X-28		✓	8	- 6:18 P.M.
X-29		✓	8	- 6:07 P.M.

X-30 April 8th — 7:06 a.m.

X-31 ✓ 9th — 7:07 a.m.

Both the government and the defendants having rested, the court charged the jury as to the law applicable to the issues involved in the case; Whereupon, the jury retired to consider their verdict, and presently returned into court a verdict of guilty as charged against the defendants Albert M. Morrison, Joseph L. O'Neal, Merchant D. O'Neal, Lander H. Necaise and Felton Le Bouef; And an appeal is being prosecuted by all of them except Felton Le Bouef.

And the foregoing being all of the proceedings in said cause, except as otherwise appear from the record; And being all of the evidence adduced at the trial of the said cause, Albert M. Morrison, Joseph L. O'Neal, Merchant D. O'Neal and Lander H. Necaise, the defendants, tender this their bill of exceptions; and the said bill of exceptions is hereby allowed and approved by the court as and for a full, complete and true statement of all of the evidence adduced at the trial of the cause, and all of the proceedings, except as otherwise appear from the record of the cause; and the same is hereby signed and ordered to constitute a part of the record on the appeal of the defendants, on this the 19th day of September 1933, within the time allowed by the court therefor.


District Judge.